

Objek jaminan fidusia yang disewakan oleh debitur dalam pailit :  
Analisis kasus perkara No. 68/Pailit/2010/PN.Niaga.Jkt.Pst = Object of  
fiduciary security leased by the debtor in bankruptcy : Analysis of Case  
No. 68/Pailit/2010/PN.Niaga.Jkt.Pst

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Abstrak

**ABSTRAK**

Pada kasus Putusan No. 68/Pailit/2010/PN.Niaga.Jkt.Pst tanggal 1 November 2010 oleh Pengadilan Niaga Jakarta Pusat, PT. Texplastindo Kemas Industry melakukan Perjanjian Kredit dengan Bank BNI, namun ternyata Objek Jaminan Fidusia Perjanjian Kredit tersebut ternyata disewakan kepada PT. Inti Abadi Karya tanpa sepengetahuan Bank BNI. Sehingga timbul permasalahan bagaimana status hukum objek jaminan fidusia Bank BNI dalam kepailitan PT. Texplastindo Kemas Industry, serta Bagaimana upaya hukum yang dapat dilakukan oleh Bank BNI terhadap objek jaminan fidusianya tersebut. Dengan kesimpulan : Pertama, status hukum objek jaminan fidusia adalah Bank BNI tetap berstatus jaminan atas hutang PT. Texplastindo Kemas Industry dengan hak yang diutamakan daripada hak krediturkreditur lainnya, namun didalamnya terdapat pula hak pengembalian harga sewa yang sudah dibayarkan namun belum dinikmati oleh PT. Inti Abadi Karya. Kedua, upaya hukum Bank BNI adalah mendaftarkan hutang dengan mencantumkan hak istimewa (jaminan fidusia), untuk kemudian melakukan eksekusi sebagaimana layaknya tidak terjadi kepailitan (sebagai kreditur separatis), dan melaporkan debitur atas pelanggaran Pasal 36 Undang-Undang Jaminan Fidusia No. 42 tahun 1999, serta pengajuan sebagai kreditur konkuren dalam hal jumlah hutang lebih besar nilainya daripada nilai objek jaminan fidusianya. Saran didalam penelitian ini adalah harus adanya harmonisasi Undang-Undang Jaminan Fidusia dengan Undang-Undang Kepailitan, serta efektifitas instansi pelaksana eksekusi jaminan.

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**Abstract**

At the Bankruptcy case of Decision No. 68/Pailit/2010/PN.Niaga.Jkt.Pst dated November 1, 2010, by the Commercial Court of Central Jakarta, in which PT. Texplastindo Kemas Industry entered into Loan Agreement with Bank BNI, however, it turned out that the Object of the Fiduciary Security in order to secure the Loan Agreement has been leased to PT. Inti Abadi Karya without the consent of Bank BNI. Therefore, the issues in this research are regarding the legal status of the object of fiduciary security of Bank BNI in the bankruptcy of PT. Texplastindo Kemas Industry, and what are the legal efforts which can be taken by Bank BNI against the object of its fiduciary security. With the conclusion: Firstly, the legal status of object of fiduciary security remains under the entitlement of Bank BNI as the beneficiary of fiduciary securities of PT. Texplastindo Kemas Industry as the collateral of the debt of PT. Texplastindo Kemas Industry with the right of preference over other creditors, however, in it there is also the right over the recovery of rental which has been paid that has

not yet been enjoyed by PT. Inti Abadi Karya. Secondly, the legal effort of Bank BNI is to register the debt by stating its right of preference (fiduciary security), to be then executed accordingly in the case of bankruptcy (as creditor with preferred right), and report the debtor for the violation of Article 36 of Fiduciary Security Law No. 42 of the year 1999, as well as the filing of petition as concurrent creditor in the event that the amount of the debt is greater than the value of the object of the fiduciary security. Advices in this research are that there should be a harmony between the Fiduciary Security Law and the Bankruptcy Law, as well as there should be effective institution as the executor of the security.